



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5705

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-110.16

Amends the General Provisions Article of the Illinois Pension Code. Requires the Illinois Investment Policy Board to make its best efforts to identify all companies domiciled in Russia and include those companies in the list of restricted companies for purposes of investment distributed to each retirement system and the Illinois State Board of Investment. Makes conforming changes. Effective immediately.

LRB102 26465 RPS 36916 b

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by
5 changing Section 1-110.16 as follows:

6 (40 ILCS 5/1-110.16)

7 Sec. 1-110.16. Transactions prohibited by retirement
8 systems; companies that boycott Israel, for-profit companies
9 that contract to shelter migrant children, Iran-restricted
10 companies, Sudan-restricted companies, ~~and~~ expatriated
11 entities, and companies domiciled in Russia.

12 (a) As used in this Section:

13 "Boycott Israel" means engaging in actions that are
14 politically motivated and are intended to penalize,
15 inflict economic harm on, or otherwise limit commercial
16 relations with the State of Israel or companies based in
17 the State of Israel or in territories controlled by the
18 State of Israel.

19 "Company" means any sole proprietorship, organization,
20 association, corporation, partnership, joint venture,
21 limited partnership, limited liability partnership,
22 limited liability company, or other entity or business
23 association, including all wholly owned subsidiaries,

1 majority-owned subsidiaries, parent companies, or
2 affiliates of those entities or business associations,
3 that exist for the purpose of making profit.

4 "Contract to shelter migrant children" means entering
5 into a contract with the federal government to shelter
6 migrant children under the federal Unaccompanied Alien
7 Children Program or a substantially similar federal
8 program.

9 "Illinois Investment Policy Board" means the board
10 established under subsection (b) of this Section.

11 "Direct holdings" in a company means all publicly
12 traded securities of that company that are held directly
13 by the retirement system in an actively managed account or
14 fund in which the retirement system owns all shares or
15 interests.

16 "Expatriated entity" has the meaning ascribed to it in
17 Section 1-15.120 of the Illinois Procurement Code.

18 "Indirect holdings" in a company means all securities
19 of that company that are held in an account or fund, such
20 as a mutual fund, managed by one or more persons not
21 employed by the retirement system, in which the retirement
22 system owns shares or interests together with other
23 investors not subject to the provisions of this Section or
24 that are held in an index fund.

25 "Iran-restricted company" means a company that meets
26 the qualifications under Section 1-110.15 of this Code.

1 "Private market fund" means any private equity fund,
2 private equity funds of funds, venture capital fund, hedge
3 fund, hedge fund of funds, real estate fund, or other
4 investment vehicle that is not publicly traded.

5 "Restricted companies" means companies that boycott
6 Israel, for-profit companies that contract to shelter
7 migrant children, Iran-restricted companies,
8 Sudan-restricted companies, ~~and~~ expatriated entities, and
9 companies domiciled in Russia.

10 "Retirement system" means a retirement system
11 established under Article 2, 14, 15, 16, or 18 of this Code
12 or the Illinois State Board of Investment.

13 "Sudan-restricted company" means a company that meets
14 the qualifications under Section 1-110.6 of this Code.

15 (b) There shall be established an Illinois Investment
16 Policy Board. The Illinois Investment Policy Board shall
17 consist of 7 members. Each board of a pension fund or
18 investment board created under Article 15, 16, or 22A of this
19 Code shall appoint one member, and the Governor shall appoint
20 4 members.

21 (c) Notwithstanding any provision of law to the contrary,
22 beginning January 1, 2016, Sections 110.15 and 1-110.6 of this
23 Code shall be administered in accordance with this Section.

24 (d) By April 1, 2016, the Illinois Investment Policy Board
25 shall make its best efforts to identify all Iran-restricted
26 companies, Sudan-restricted companies, and companies that

1 boycott Israel and assemble those identified companies into a
2 list of restricted companies, to be distributed to each
3 retirement system.

4 These efforts shall include the following, as appropriate
5 in the Illinois Investment Policy Board's judgment:

6 (1) reviewing and relying on publicly available
7 information regarding Iran-restricted companies,
8 Sudan-restricted companies, and companies that boycott
9 Israel, including information provided by nonprofit
10 organizations, research firms, and government entities;

11 (2) contacting asset managers contracted by the
12 retirement systems that invest in Iran-restricted
13 companies, Sudan-restricted companies, and companies that
14 boycott Israel;

15 (3) contacting other institutional investors that have
16 divested from or engaged with Iran-restricted companies,
17 Sudan-restricted companies, and companies that boycott
18 Israel; and

19 (4) retaining an independent research firm to identify
20 Iran-restricted companies, Sudan-restricted companies,
21 and companies that boycott Israel.

22 The Illinois Investment Policy Board shall review the list
23 of restricted companies on a quarterly basis based on evolving
24 information from, among other sources, those listed in this
25 subsection (d) and distribute any updates to the list of
26 restricted companies to the retirement systems and the State

1 Treasurer.

2 By April 1, 2018, the Illinois Investment Policy Board
3 shall make its best efforts to identify all expatriated
4 entities and include those companies in the list of restricted
5 companies distributed to each retirement system and the State
6 Treasurer. These efforts shall include the following, as
7 appropriate in the Illinois Investment Policy Board's
8 judgment:

9 (1) reviewing and relying on publicly available
10 information regarding expatriated entities, including
11 information provided by nonprofit organizations, research
12 firms, and government entities;

13 (2) contacting asset managers contracted by the
14 retirement systems that invest in expatriated entities;

15 (3) contacting other institutional investors that have
16 divested from or engaged with expatriated entities; and

17 (4) retaining an independent research firm to identify
18 expatriated entities.

19 By July 1, 2022, the Illinois Investment Policy Board
20 shall make its best efforts to identify all for-profit
21 companies that contract to shelter migrant children and
22 include those companies in the list of restricted companies
23 distributed to each retirement system. These efforts shall
24 include the following, as appropriate in the Illinois
25 Investment Policy Board's judgment:

26 (1) reviewing and relying on publicly available

1 information regarding for-profit companies that contract
2 to shelter migrant children, including information
3 provided by nonprofit organizations, research firms, and
4 government entities;

5 (2) contacting asset managers contracted by the
6 retirement systems that invest in for-profit companies
7 that contract to shelter migrant children;

8 (3) contacting other institutional investors that have
9 divested from or engaged with for-profit companies that
10 contract to shelter migrant children; and

11 (4) retaining an independent research firm to identify
12 for-profit companies that contract to shelter migrant
13 children.

14 No later than 6 months after the effective date of this
15 amendatory Act of the 102nd General Assembly, the Illinois
16 Investment Policy Board shall make its best efforts to
17 identify all companies domiciled in Russia and include those
18 companies in the list of restricted companies distributed to
19 each retirement system. These efforts shall include the
20 following, as appropriate in the Illinois Investment Policy
21 Board's judgment:

22 (1) reviewing and relying on publicly available
23 information regarding companies domiciled in Russia,
24 including information provided by nonprofit organizations,
25 research firms, and government entities;

26 (2) contacting asset managers contracted by the

1 retirement systems that invest in companies domiciled in
2 Russia;

3 (3) contacting other institutional investors that have
4 divested from or engaged with companies domiciled in
5 Russia; and

6 (4) retaining an independent research firm to identify
7 companies domiciled in Russia.

8 (e) The Illinois Investment Policy Board shall adhere to
9 the following procedures for companies on the list of
10 restricted companies:

11 (1) For each company newly identified in subsection
12 (d), the Illinois Investment Policy Board shall send a
13 written notice informing the company of its status and
14 that it may become subject to divestment or shareholder
15 activism by the retirement systems.

16 (2) If, following the Illinois Investment Policy
17 Board's engagement pursuant to this subsection (e) with a
18 restricted company, that company ceases activity that
19 designates the company to be an Iran-restricted company, a
20 Sudan-restricted company, a company that boycotts Israel,
21 an expatriated entity, or a for-profit company that
22 contracts to shelter migrant children, the company shall
23 be removed from the list of restricted companies and the
24 provisions of this Section shall cease to apply to it
25 unless it resumes such activities.

26 (3) For a company domiciled in Russia, if, following

1 the Illinois Investment Policy Board's engagement pursuant
2 to this subsection (e), that company is no longer
3 domiciled in Russia, the company shall be removed from the
4 list of restricted companies and the provisions of this
5 Section shall cease to apply to it unless it becomes
6 domiciled in Russia.

7 (f) Except as provided in subsection (f-1) of this Section
8 the retirement system shall adhere to the following procedures
9 for companies on the list of restricted companies:

10 (1) The retirement system shall identify those
11 companies on the list of restricted companies in which the
12 retirement system owns direct holdings and indirect
13 holdings.

14 (2) The retirement system shall instruct its
15 investment advisors to sell, redeem, divest, or withdraw
16 all direct holdings of restricted companies from the
17 retirement system's assets under management in an orderly
18 and fiduciarily responsible manner within 12 months after
19 the company's most recent appearance on the list of
20 restricted companies.

21 (3) The retirement system may not acquire securities
22 of restricted companies.

23 (4) The provisions of this subsection (f) do not apply
24 to the retirement system's indirect holdings or private
25 market funds. The Illinois Investment Policy Board shall
26 submit letters to the managers of those investment funds

1 containing restricted companies requesting that they
2 consider removing the companies from the fund or create a
3 similar actively managed fund having indirect holdings
4 devoid of the companies. If the manager creates a similar
5 fund, the retirement system shall replace all applicable
6 investments with investments in the similar fund in an
7 expedited timeframe consistent with prudent investing
8 standards.

9 (f-1) The retirement system shall adhere to the following
10 procedures for restricted companies that are expatriated
11 entities or for-profit companies that contract to shelter
12 migrant children:

13 (1) To the extent that the retirement system believes
14 that shareholder activism would be more impactful than
15 divestment, the retirement system shall have the authority
16 to engage with a restricted company prior to divesting.

17 (2) Subject to any applicable State or Federal laws,
18 methods of shareholder activism utilized by the retirement
19 system may include, but are not limited to, bringing
20 shareholder resolutions and proxy voting on shareholder
21 resolutions.

22 (3) The retirement system shall report on its
23 shareholder activism and the outcome of such efforts to
24 the Illinois Investment Policy Board by April 1 of each
25 year.

26 (4) If the engagement efforts of the retirement system

1 are unsuccessful, then it shall adhere to the procedures
2 under subsection (f) of this Section.

3 (g) Upon request, and by April 1 of each year, each
4 retirement system shall provide the Illinois Investment Policy
5 Board with information regarding investments sold, redeemed,
6 divested, or withdrawn in compliance with this Section.

7 (h) Notwithstanding any provision of this Section to the
8 contrary, a retirement system may cease divesting from
9 companies pursuant to subsection (f) if clear and convincing
10 evidence shows that the value of investments in such companies
11 becomes equal to or less than 0.5% of the market value of all
12 assets under management by the retirement system. For any
13 cessation of divestment authorized by this subsection (h), the
14 retirement system shall provide a written notice to the
15 Illinois Investment Policy Board in advance of the cessation
16 of divestment, setting forth the reasons and justification,
17 supported by clear and convincing evidence, for its decision
18 to cease divestment under subsection (f).

19 (i) The cost associated with the activities of the
20 Illinois Investment Policy Board shall be borne by the boards
21 of each pension fund or investment board created under Article
22 15, 16, or 22A of this Code.

23 (j) With respect to actions taken in compliance with this
24 Section, including all good-faith determinations regarding
25 companies as required by this Section, the retirement system
26 and Illinois Investment Policy Board are exempt from any

1 conflicting statutory or common law obligations, including any
2 fiduciary duties under this Article and any obligations with
3 respect to choice of asset managers, investment funds, or
4 investments for the retirement system's securities portfolios.

5 (k) It is not the intent of the General Assembly in
6 enacting this amendatory Act of the 99th General Assembly to
7 cause divestiture from any company based in the United States
8 of America. The Illinois Investment Policy Board shall
9 consider this intent when developing or reviewing the list of
10 restricted companies.

11 (l) If any provision of this amendatory Act of the 99th
12 General Assembly or its application to any person or
13 circumstance is held invalid, the invalidity of that provision
14 or application does not affect other provisions or
15 applications of this amendatory Act of the 99th General
16 Assembly that can be given effect without the invalid
17 provision or application.

18 If any provision of Public Act 100-551 or its application
19 to any person or circumstance is held invalid, the invalidity
20 of that provision or application does not affect other
21 provisions or applications of Public Act 100-551 that can be
22 given effect without the invalid provision or application.

23 If any provision of Public Act 102-118 ~~this amendatory Act~~
24 ~~of the 102nd General Assembly~~ or its application to any person
25 or circumstance is held invalid, the invalidity of that
26 provision or application does not affect other provisions or

1 applications of Public Act 102-118 ~~this amendatory Act of the~~
2 ~~102nd General Assembly~~ that can be given effect without the
3 invalid provision or application.

4 If any provision of this amendatory Act of the 102nd
5 General Assembly or its application to any person or
6 circumstance is held invalid, the invalidity of that provision
7 or application does not affect other provisions or
8 applications of this amendatory Act of the 102nd General
9 Assembly that can be given effect without the invalid
10 provision or application.

11 (Source: P.A. 102-118, eff. 7-23-21.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.